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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,919	03/03/2004	Richard C. Schaffer	5903.36010	3826
21000	7590	06/16/2004	EXAMINER	
DECKER, JONES, MCMACKIN, MCCLANE, HALL & BATES, P.C. BURNETT PLAZA 2000 801 CHERRY STREET, UNIT #46 FORT WORTH, TX 76102-6836			HUYNH, KHOA D	
		ART UNIT	PAPER NUMBER	
		3751		
DATE MAILED: 06/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/791,919	SCHAFFER, RICHARD C.
	Examiner	Art Unit
	Khoa D. Huynh	3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/3/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-5, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sim (5054131) in view of Poister et al. (3902203).

Regarding claim 1, the Sim reference discloses a toilet. The toilet has a bowl (12) having a drain channel (45, 47). The bowl and the drain channel have a water trap. The bowl includes an upper rim with an upper rim duct (39). The upper rim duct communicates with the bowl by openings (40). A water tank (11) locates above the bowl and includes aperture, covered by a flapper valve (23), that is in fluid communication with the upper rim duct via a passage (41). The aperture is covered by a base member (about 13) that has a flapper valve (23). A vent pipe (27, 28, 42) extends from the base member, out of the water tank and to a location of the drain channel that is downstream of the water trap (Fig. 2). A fan (43) is in line with the vent pipe. The portion of the vent pipe that is in the water tank (11) has a float valve (32). The float valve locates at a predetermined height inside the water tank, wherein when the water in the tank reaches the predetermined height, the float valve opens and allows the water to drain through the vent pipe and into the bowl.

The Sim reference DIFFERS in that it does not specifically include a one-way valve as claimed. Attention, however, is directed to the Poister et al. reference which discloses another toilet ventilating system having a one-way valve (80) located in the vent pipe (42, 43) for preventing backflow of sewer gas

into the toilet bowl. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Sim reference by employing a one-way valve, in view of the teaching of Poister et al, in order to prevent backflow of sewer gas into the toilet bowl.

Regarding claim 2, the modified Sim reference DIFFERS in that it does not specifically disclose the inside diameter of the vent pipe is of at least one inch. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a vent pipe having an inside diameter of at least one inch since discovering an optimum size for an inside diameter of a pipe involves only routine experiment or trial and error for one of skill in the art.

Regarding claim 3, a fitting (seed added notation in Fig. 2) is located where the vent pipe enters the drain channel. The fitting allows the vent pipe to removably coupled thereto.

Regarding claim 4, the one-way (80) is a flapper valve.

Regarding claim 5, the vent pipe (as schematically shown in Figure 2) is at least partially positioned in-line with the water tank aperture to provide for volumes of air to be removed from the bowl.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Curtis et al. was cited to show an odor removal apparatus for a toilet.

Art Unit: 3751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Patent Examiner
Art Unit 3751

HK
06/11/04